

Message Text

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FM SECSTATE WASHDC

TO AMEMBASSY OTTAWA PRIORITY

C O N F I D E N T I A L STATE 240928

E.O. 11652: GDS

TAGS: MARR, MILI, CA

SUBJECT: GOOSE BAY AGREEMENT

REFS: A. OTTAWA 3737 B. OTTAWA 2737

1. REVISED CANADIAN DRAFT NOTE SET FORTH REF A IS ACCEPTABLE, WITH TWO EXCEPTIONS:

A. ALTHOUGH WE DID NOT OBJECT PREVIOUSLY TO REFERENCE TO QUOTE CANADIAN UNQUOTE CONTRACTOR IN LAST SENTENCE OF PARA 4 OF ANNEX, IN VIEW OF GOC HARDLINE ON CONTRACTING ISSUE IN NEGOTIATION OF SAC/ADCOM DEPLOYMENT AGREEMENT (OTTAWA 3594), WE ARE CONCERNED THAT PRESENT LANGUAGE PREJUDICES US POSITION ON EQUAL COMPETITION BETWEEN US AND CANADIAN CONTRACTORS. THEREFORE, EMBASSY SHOULD SEEK DELETION OF WORD QUOTE CANADIAN UNQUOTE IN THIS SENTENCE, OR, AS FALLBACK, DELETION OF ENTIRE SENTENCE AS UNNECESSARY.

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B. IN PARA 5.A. OF ANNEX WE PREFER SAME WORDING USED IN NOTE OF JUNE 29, 1976, EXTENDING AND AMENDING CURRENT GOOSE BAY AGREEMENT (REF B), I.E., QUOTE SERVICES AND UTILITIES UNQUOTE RATHER THAN QUOTE ALL SERVICES. UNQUOTE PARA 5.A. WOULD THEN READ:

QUOTE AS A GENERAL PRINCIPLE, SERVICES AND UTILITIES PROVIDED BY CANADA TO THE USAF SHALL BE PROVIDED ON A COST RECOVERABLE BASIS IN ACCORDANCE WITH THE TERMS AND PROVISIONS CONTAINED IN IMPLEMENTING ARRANGEMENTS TO BE CONCLUDED PURSUANT TO PARAGRAPH 9 OF THIS ANNEX. UNQUOTE (FYI: WE DO NOT WISH TO PRECLUDE THE POSSIBILITY THAT SOME SERVICES MIGHT BE PROVIDED INFORMALLY, FREE OF CHARGE, AS IS THE CASE IN MANY AD HOC ARRANGEMENTS.)

2. IN THE USUAL CASE WE WOULD NOT ENVISION ANY FORMAL ACTION TO WAIVE A CLAIM UNDER PARA 7.B. OF THE AGREEMENT. IF US MILITARY CLAIMS AUTHORITIES CONSIDERED WAIVER PROVISION APPLICABLE IN A PARTICULAR CASE, NO CLAIM AGAINST GOC WOULD BE ASSERTED. IN OTHER WORDS, THE AGREEMENT CONSTITUTES THE WAIVER AND NO FURTHER ACTION NEED BE TAKEN. SHOULD A QUESTION ARISE REGARDING APPLICABILITY OF THE WAIVER PROVISION IN A PARTICULAR CASE, WE WOULD EXPECT MATTER TO BE REFERRED TO RESPECTIVE GOVERNMENTS FOR RESOLUTION THROUGH NORMAL, E.G. DIPLOMATIC, CHANNELS.

3. WE ARE PUZZLED BY STATEMENT IN EXTAFF LETTER THAT CANADIAN LEGAL ADVISERS DO NOT CONSIDER 1943 AGREEMENT ON RELIEF FROM PROVINCIAL TAXES (EAS 339) TO BE IN FORCE. OUR RECORDS INDICATE THAT AGREEMENT REMAINS IN FORCE AND WE WOULD APPRECIATE FURTHER EXPLANATION BY EXTAFF OF CANADIAN POSITION. KISSINGER

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